

# Overview & Update

# Federal Health Care Reform

## Alaska Health Care Commission Meeting

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# Presentation Overview

- Legal Challenges & Political Realities
- Status of Federal Implementation
- Structure of the Affordable Care Act
- Key Provisions in the Act (with Alaska Updates)
- Alaska Impact
- Timeline for Implementation

# Legal Challenges & Political Realities



- Alaska is participating as a plaintiff in the 26-state lawsuit led by Florida. (11<sup>th</sup> Circuit)
- Challenging the Constitutionality of:
  - The individual mandate requiring individuals to purchase health insurance
  - Unfunded mandates imposed on state governments (Medicaid Expansion)
  - Question regarding severability
- Appellate Court Ruling Scorecard:
  - 2 rulings upheld ACA (6<sup>th</sup> and D.C. Circuits)
  - 1 ruling against individual mandate, but upheld Medicaid expansion (11<sup>th</sup> Circuit)
  - 1 ruling avoided merits of the case; ruled against plaintiffs on jurisdictional grounds (4<sup>th</sup> Circuit)
  - Supreme Court will Review this year – ruling expected June 2012

# Legal Challenges & Political Realities

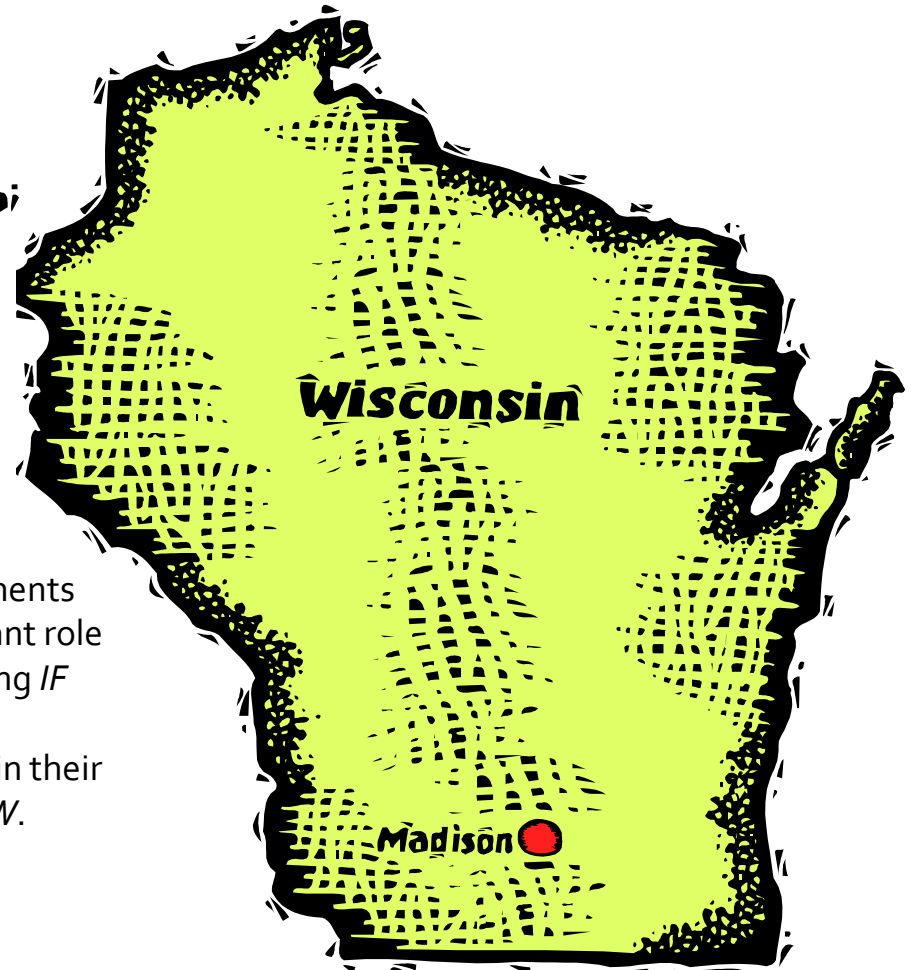


- **What has the 2010 election meant for the ACA?**
  - There's a big difference between campaigning and legislating....
  - Wholesale repeal unlikely
  - Increased congressional oversight of implementation
  - Provisions with no appropriation in original bill may not be funded
  - Some provisions are supported by GOP (e.g., fraud and abuse)
  - Repeal of some provisions would increase deficit

# Legal Challenges & Political Realities



State governments  
play a significant role  
– not in deciding *IF*  
ACA will be  
implemented in their  
state, but *HOW*.



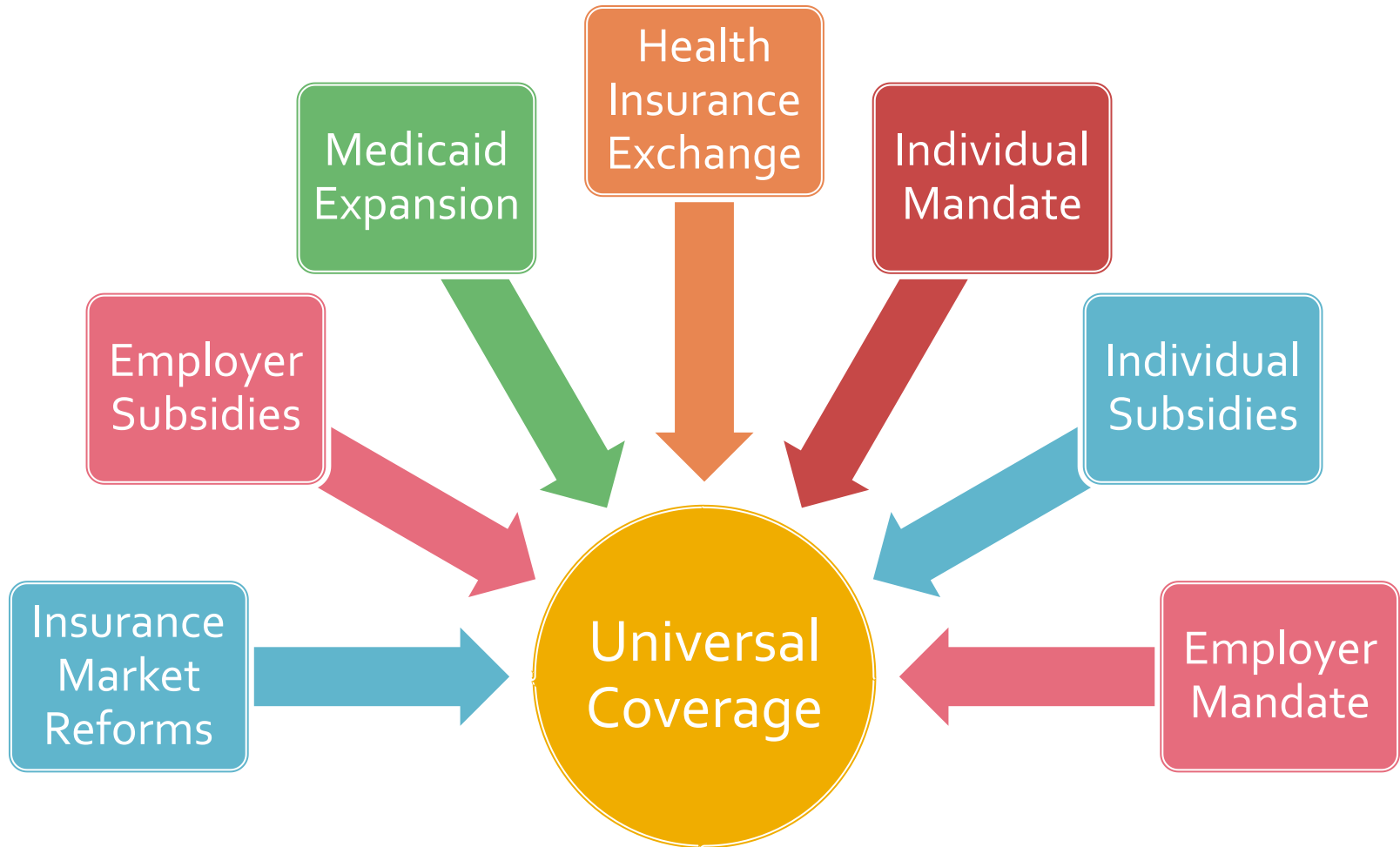
# Federal Implementation To-Date

- Three new federal laws enacted March and April 2010
  - P.L. 111-148: The Patient Protection & Affordable Care Act
  - P.L. 111-152: The Health Care and Education Reconciliation Act
  - P.L. 111-159: TRICARE Affirmation Act
- Scores of funding opportunities released to-date
- 34 Regulation packages released to-date
- 4 New federal offices established; 1 new non-profit
- 4 New councils/boards/committees formed
- New website live – [www.healthcare.gov](http://www.healthcare.gov)

# Components of the Act

- Health Care Coverage (Titles I & II)
- Health Care Delivery (Title III)
- Prevention and Public Health (Title IV)
- Health Care Workforce (Title V)
- Fraud and Abuse (Title VI)
- Medical Technology (Title VII)
- Community Living Assistance (Title VIII)
- Taxes and Fees (Title IX)
- Amendments (Title X)

# Move Towards Universal Coverage





# Insurance Market Reforms

- New Private Insurance Market Rules
  - Exclusions for pre-existing conditions prohibited
    - For children in 2010
    - For adults in 2014
  - Dependent coverage extended to 26 years of age (2010)
  - Lifetime limits prohibited (2010)
  - Annual limits restricted (2010), then prohibited (2014)
  - Prohibition on rescissions (2010)
  - Medical Loss Ratio: Reporting (2010); Restricted (2011)
  - Guaranteed issue and renewal rules (2014)
  - Adjusted community rating rules limit variations in premiums to region, tobacco use, age, and family composition (2014)
  - Gender discrimination prohibited

# Insurance Market Reforms

- New Insurance Plan Options
  - Temporary high-risk health insurance pool (2010 - 2014)
    - *Alaska Update: Alaska's ACHIA Fed Pre-Existing Conditions Plan started 8/1/10; there were 46 Alaskans enrolled on 12/02/11*
  - Health Care Cooperatives ("Co-Ops") (2013)
    - Non-profit member-operated health insurance companies created through loans and grants
  - Multi-state health plans (2014)
  - Health Choice Compacts (2016)

# Insurance Market Reforms

- State Insurance Oversight and Consumer Assistance
  - Review of Health Plan Premiums (2010)
    - *Alaska Update: SOA declined fed funds as unnecessary and potentially burdensome; HB 164 passed during 2011 legislative session expanded authority of AK Division of Insurance to pre-approve rate increases for all private health insurers operating in Alaska; Alaska was deemed by US DHHS as having an effective review program in July 2011.*
  - State Consumer Assistance Programs (2010)
    - *Alaska Update: SOA declined fed funds as unnecessary and potentially burdensome; AK Division of Insurance maintains an adequately staffed consumer assistance program.*

# Employer Subsidies

- Tax Credit (2010)
  - For businesses with  $\leq 25$  employees and average annual wages  $< \$50,000$
  - *Unable to determine participation by Alaskan employers at this time*
- Temporary Early Retiree Reinsurance Program (2010 - 2014)
  - Employers reimbursed 80% of retiree claims between \$15,000 and \$90,000 until 2014
  - *Alaska Update: 8 employers enrolled; \$1.1 million in reimbursement received as of Sept 2011*

# Medicaid Expansion

- Eligibility expanded to all individuals/families under 65 years of age up to 133% FPL (2014)
- State share phased in 2017-2020 (max 10%)
- Alaska preliminary mid-range estimate
  - 30,000 new enrollees
  - Cost to State = \$20 M/year
- State option to implement immediately (2010)

# Health Insurance Exchange (HIX)

- Electronic Market Place for Purchasing Insurance
  - State-based; Multi-state option
  - May be administered by gov't agency or non-profit
  - State gov't opt-out provision (fed gov't will then establish state's exchange) (2013)
  - For individuals and small business (<100 employees) (2014)
    - Federal subsidies for individuals will be applied through the exchange
    - Interface with State's Medicaid eligibility and enrollment system required
    - Large businesses allowed to participate starting 2017
  - Required to be self-sustaining (2015)
- Grants to states for planning and implementation (2010)
  - *Alaska Update: SOA declined fed funds as unnecessary and potentially burdensome, but is utilizing available funds to solicit contract with consultant to advise on design – RFP released Sept 2011, contract to be awarded Dec 2011, report due Apr 2012; Alaska Medicaid's Children's Health Insurance Program (CHIP) has won a number of financial awards from US DHHS for high performance in CHIP enrollment, and is being used as a model at the national level in the design of streamlined eligibility process and outreach templates for HIXs.*
- State innovation waiver (2017)

# Individual Mandate

- Individuals must have a qualified health plan or pay a tax penalty (2014)
  - Tax penalty \$695/year (Family capped at 3x individual penalty (\$2,085)) or 2.5% of household income, whichever is greater (phased in)
  - Exemptions include
    - Financial hardship
    - Religion
    - American Indians/Alaskan Natives
    - Lowest cost option exceeds 8% of income

# Individual Subsidies

- Premium Credits (2014)
  - Refundable/Advanceable credits for purchase of insurance through the Exchange
  - Individuals/families with incomes between 133%-400% FPL
  - Amounts tied to cost of plan and set on sliding scale based on income level
- Cost Sharing Subsidies (2014)
  - Individuals/families between 100% - 400% FPL



# Employer Mandate

- < 50 employees: Exempt
- > 50 employees - if 1 or more employee receives subsidy:
  - And employer does not offer coverage, employer required to pay fee of \$2,000/FTE (1<sup>st</sup> 30 FTEs excluded)
  - And employer provides coverage, employer required to pay fee of \$2,000/FTE or \$3,000 per subsidized employee (whichever is less)
- > 200 employees: Required to auto-enroll new employees
- Provide voucher to employees with incomes less than 400% FPL who chose to participate in Exchange
- Report value of health care benefits on employees' W-2 (2011)
  - IRS issued notice making this requirement optional for large employers (>250 employees) until 2012 and for small employers until 2013.

# Health Care Delivery

- Evidence-Based Practice (Comparative Effectiveness Research)
  - New non-profit Patient-Centered Outcomes Research Institute was established Sept 2010
- Quality Improvement (National Strategy)
  - National Health Care Quality Strategy report was issued March 2011
- Care Coordination and Service Integration
  - Community-Based Care Transitions Program *at least 1 AK HC provider intends to apply*
  - Primary Care & Behavioral Health Service Integration *grants to AICS (Wrangell) & SCF*
- Trauma System Enhancement *(funds not appropriated)*
- Enhanced funding for Community Health Centers
  - *Alaska Update: \$9.5 million in new and increased community health center funds awarded in Alaska as of Aug 2011; plus 13 AKn CHCs awarded \$35k each Sept 2011 for PCMH transition*
- Primary Care Enhancement
  - Medicare 10% bonus to primary care physicians (2011–2015)
  - Medicaid Medical Home State Plan Option (90% FMAP for 2 years) (2011) *AK Medicaid program will wait until medical home program fully operational to exercise option, as there is no expiration date on the option, and the 2-year clock on the enhanced FMAP starts ticking as soon as the State's application is approved by feds*
  - Increase Medicaid payment to Medicare rate *(n/a in AK)*

# Payment Reform

- Center for Medicare & Medicaid Innovation (2011)
- Multi-Payer Advanced Primary Care Practice Demo (2011)
- Medicare Payment Reform ACA Provisions
  - Independent Payment Advisory Board (2011; 1<sup>st</sup> rpt due 2014)
  - FQHC Advanced PCP Demo (2011)
  - Hospital readmission reduction program (2012)
  - Shared savings program (Accountable Care Organizations) (2012)
  - Hospital value-based purchasing program (2012)
  - Bundled payment (episodes of care) pilot (2013)
  - Physician fee schedule value-based payment modifier (2015)
  - Payment adjustments for hospital-acquired conditions (2015)
- Medicaid Payment Reform ACA Provisions
  - Non-payment for healthcare-acquired conditions (2011)
  - Pediatric ACO demonstration (2012)
  - Hospital bundled payment (episodes of care) demonstration (2013)

# Prevention & Public Health

- National Prevention Council and Fund
- Coverage of clinical preventive services
- Nutrition labeling on menus
- Community wellness grants
- Healthy lifestyles incentives (Medicare and Medicaid)
- Immunization program
- Epidemiology & PH laboratory capacity
- Childhood obesity demonstration project
- Maternal and child health programs

*Alaska Update: Approximately \$7 M in grants for public health, prevention, workforce development, and programs for aged/disabled have been awarded to-date in AK; it's important to note that a number of these grants were previously authorized and funded but were reauthorized under and now appear as ACA programs*

# Health Care Workforce

- National HC Workforce Commission
- National health care workforce assessment
- National Health Service Corps increased
- State health care workforce plans
  - *Alaska Update: AK Dept of Labor and WF Development awarded grant last year, which was used to support AK Health Workforce Coalition and development of their recently released Action Plan*
- Recruitment and retention programs
- Training and education programs
  - Rural physician training grants
  - Area Health Education Center (AHEC) expansion
  - GME (graduate medical education) improvements
    - Resident training in community-based settings
    - Redistribution of GME slots

# Fraud & Abuse

***"2011 will be a turning point for compliance programs...."***

Report on Medicare Compliance  
January 17, 2011

***"The stress level for compliance professionals will go off the charts this year."***

Roy Snell, President  
Health Care Compliance Association  
January 17, 2011

ACA includes 32 sections on health care fraud and abuse and program integrity

# Fraud & Abuse

- New Provider Enrollment Processes
- Data Sharing Across Federal Programs
- Overpayment Recovery Expanded
- Increased Penalties
- Disclosure of Financial Relationships Required
- Compliance Plans Required

# Fraud & Abuse

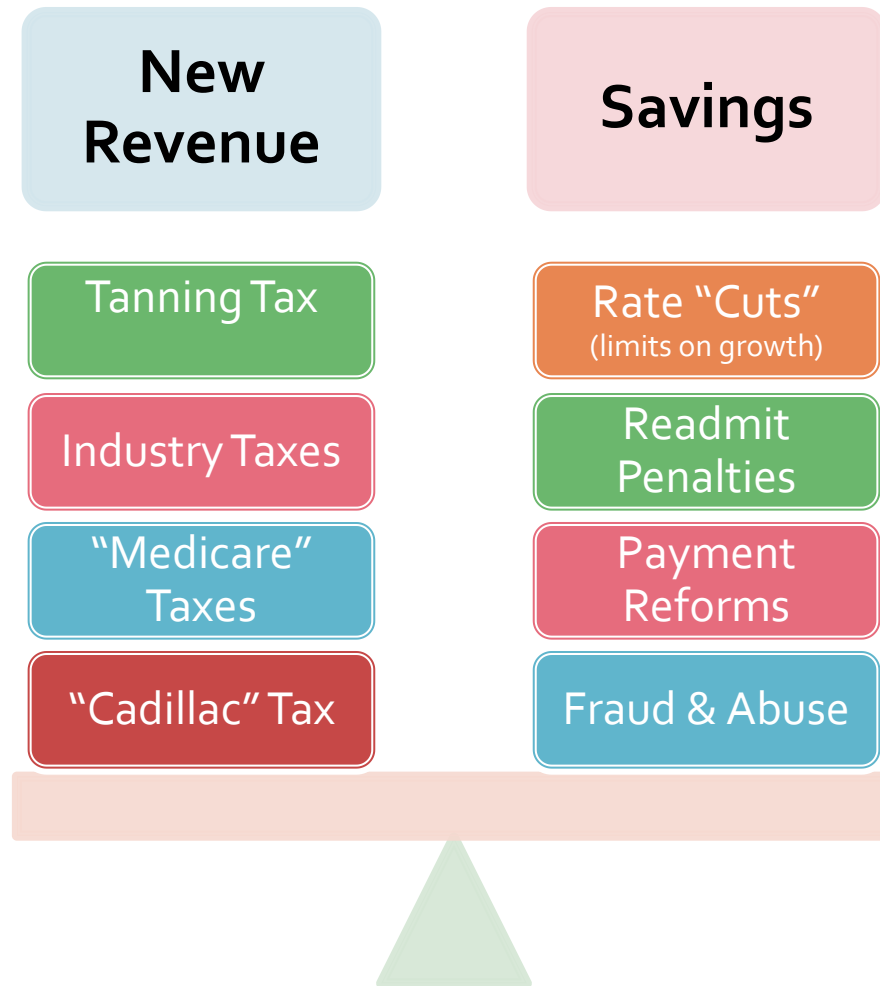
- New Medicaid RAC Program
  - Federal regulations released September 2011
  - State Medicaid Program required to implement RAC Program by January 2012
  - *Alaska Update: AK DHSS is evaluating how to align new Medicaid RAC program with Medicaid audit program mandated under State law to minimize impact on providers.*



# Community Living Assistance

- New long-term care insurance program (2011)
  - Voluntary
  - 5-year vesting
  - Cash benefit
    - to help aged/disabled stay in home or
    - cover nursing home costs

# How the Act Pays for Itself



# New Fees & Taxes

- 10% sales tax on indoor tanning (2010)
- \$2.8 billion annual fee on pharmaceutical industry (2012; increasing over time)
- 2.3% sales tax on medical devices (2013)
  - Glasses, contacts, hearing aids exempt
- Medicare payroll tax increased from 1.45% to 2.35% for individuals >\$200K and couples >\$250K; no increase to employer share (2013)
- New 3.8% Medicare tax on unearned income for individuals >\$200K and couples >\$250K (2013)
- Tax deduction for employers receiving Medicare Part D retiree subsidy eliminated (2013)
- \$8 billion annual fee on health insurance industry (2014; increasing over time)
- Excise tax on employer-sponsored high-value insurance plans (2018)
  - “Cadillac Plans” tax imposed on plans valued at more than \$10,200 for an individual plan and \$27,500 for family coverage

# Other Provisions

- Amends FLSA to require break times/locations for nursing mothers
- Alaska Federal Health Care Access Task Force
  - *Alaska Update: Convened Jul-Aug 2010, produced report Sept 2010, dissolved with production of report.*
- Medicare “Donut Hole” Closure
  - *2,329 Alaskans received \$250 rebate in 2010; in 2011 those in the donut hole are receiving a 50% discount on covered brand name prescription drugs*
- Elder Justice Act
- Indian Health Care Improvement Act Reauthorized

# Alaska Impact 2019 (MAFA Projections)

- Increase in health care spending: +\$289 M
  - State of Alaska: +41 M
  - Alaska Households: \$124 M
  - Federal Gov: \$124 M
  
- Increase in insurance coverage: +53,000 Alaskans
  - Medicare: 0
  - Medicaid: +38,000
  - Employer sponsored: - 45,000
  - Exchanges: +78,000 (60% supported by fed subsidies)
  - Other Private: - 18,000
  - Other Public: 0

# Timeline

## ■ 2010

- Smallest employers ( $\leq 25$  FTEs) eligible for tax credits
- Medicaid Maintenance of Effort imposed (March)
- Temporary high-risk insurance pool program established (June)
- Temporary reinsurance program for early retirees established (June)
- Feds establish website to facilitate insurance information (July)
- Grants to states for
  - Exchange planning and implementation
  - Assistance with insurance premium review requirements
  - Establishing an office of health insurance consumer assistance
  - Numerous public health and workforce programs
- Insurance Market Reforms Implemented (new plans for plan years beginning after 9/23/10)
  - Pre-existing condition exclusion prohibited for children
  - Lifetime limits prohibited; annual limits restricted
  - Prohibition on rescission of coverage
  - Dependent coverage to 26 years of age
  - Medical loss ratio reporting required
  - Coverage of clinical preventive services required

# Timeline

## ■ 2011

- Medicaid Options & Requirements
  - States eligible for 1% FMAP increase if certain preventive services covered with no cost-sharing
  - Required to cover tobacco cessation for pregnant women
  - New state option for home and community-based services for disabled
- Insurance Market Reforms
  - Medical Loss Ratio requirement imposed: Large group plans required to spend 85% of premium revenue on medical claims (80% for insurers covering individuals and small business)
- New Fraud & Abuse Rules Implemented

## ■ 2013

- U.S. DHHS determines State readiness to establish Exchange
- Fed regulations for health care choice compacts issued

# Timeline

## ■ 2014

- Insurance Exchanges implemented
- Medicaid changes implemented
  - Expansion to 133% FPL takes effect
  - Required to implement enrollment simplification and coordination with Exchanges
  - Required to offer premium assistance for employer-sponsored insurance.
  - DSH funding reduced
  - Prohibition on exclusion of coverage for barbiturates, benzodiazepines, and tobacco cessation products
- States required to establish at least one reinsurance entity
- Insurance Market Reforms Implemented
  - Pre-existing condition exclusion prohibited for adults
  - Guaranteed issue and renewal required
  - Adjusted community rating rules take effect
- Individual and employer mandates and subsidies implemented



# Timeline

## ■ 2015

- Insurance Exchanges must be self-sustaining
- Medicaid programs required to begin annual enrollment reporting
- States eligible for 23% FMAP increase on regular CHIP match (FFY 16 – FFY 19)

## ■ 2016

- Health Care Choice Compacts may take effect

## ■ 2017

- States will begin funding share of Medicaid expansion
- States may operate an alternative program in lieu of federal coverage reforms if waiver obtained in previous year
- States may allow large companies (>100 employees) to participate in Exchange

## ■ 2018

- Excise tax on high-value health insurance plans imposed

# Thank You

*For More Information Please Visit:*

Alaska's federal health care law information website at:  
<http://hss.state.ak.us/fedhealth/>

Alaska Health Care Commission's website at:  
<http://hss.state.ak.us/healthcommission/>